

**Before the
FEDERAL COMMUNICATIONS PETITION
Washington, D.C. 20554**

In the Matter of

Wireless LNP Forbearance

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WT Docket No. 01-184

**SPRINT PCS PETITION TO ADVANCE REPLY COMMENT DATE
AND TO ADOPT EXPEDITED DECISION-MAKING PROCESSES**

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Summary

Sprint PCS submits this petition to help ensure that number pooling, which has a November 24, 2002 start date, is implemented successfully and timely. LNP and pooling are each major undertakings, and given other regulatory mandates that are underway (e.g., CALEA, E911 Phase I and Phase II, TTY), CMRS carriers are facing a significant strain on technical resources. The simultaneous conversion of LNP and pooling on the same date would pose an unreasonable risk to the reliability of wireless carrier networks.

Verizon Wireless has made a compelling case that the Commission should forbear from applying the LNP mandate. Commission grant of this petition would free up sizable resources that could instead be devoted to implementation of other mandates and, by narrowing the scope of work that must be completed by November 24, 2002, would help ensure that pooling is implemented successfully and timely without degradation to network reliability.

The timing problem posed is that to meet the current November 24, 2002 start date for LNP, CMRS carriers must begin executing vendor contracts and begin increasing sharply the technical resources devoted to LNP implementation approximately ten months in advance of the start date (i.e., shortly after the beginning of the year). Sprint PCS submits that the public interest is not served by industry's expenditure of sizable capital and systems modifications in pursuit of the LNP mandate in advance of Commission action on the pending LNP forbearance petition.

LNP is going to be expensive to operate. Sprint PCS currently estimates that its own costs of operating in an LNP environment will increase by at least \$50 million annually (much more if automation efforts are not successfully and timely completed). However, these recurring costs would be incurred only after LNP becomes operational.

This petition is not about these large, recurring operational costs, however. Sprint PCS is confident that the Commission will be able to act on Verizon Wireless LNP forbearance petition before the current November 24, 2002 LNP conversion deadline. This petition is rather about the costs, both capital and personnel resources, that are required to *implement* LNP and how these additional LNP activities undermine Sprint PCS' ability to implement timely and successfully thousands block number pooling, and potentially undermine network reliability as well.

Sprint PCS estimates that an LNP forbearance decision by the end of the year would result in a savings of approximately \$21.1 million in LNP design, build, testing and implementation costs, which would include 120,000 man-hours. (Further, between now and the end of the year, Sprint PCS estimates it will spend an additional \$5 million and 50,000 man hours on LNP-only activities.) Inasmuch as Sprint PCS serves approximately 10% of all mobile customers, the resource savings from an early decision on the pending LNP forbearance petition would be sizable. It is important to emphasize that this does not represent all LNP costs; nor does it represent expenditures for other wireless carriers.

Sprint PCS requests that the Commission establish a target date of December 31, 2001 by which the Commission would act on the pending LNP forbearance petition. While this target date is aggressive, Sprint PCS submits that the issues are also straightforward and the case for

forbearance is clear. Indeed, the Commission found 30 months ago that the statutory forbearance criteria had been largely satisfied. The dramatic growth in competition in the mobile market since then now warrants complete forbearance of the LNP mandate.

There are two alternatives that the Commission could pursue if it believes an LNP forbearance decision date of December 31, 2001 is not practical. First, it could suspend the LNP implementation deadline to a date one year after it enters its order in this forbearance proceeding (without suspending the pooling start date). Alternatively, it could act favorably on the fully briefed pending reconsideration petitions that seek separation between the LNP and number pooling start dates, and set a new LNP deadline of January 2004, subject to action on the forbearance petition. Either action, however, must occur forthwith.

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Sprint Spectrum L.P., d/b/a Sprint PCS ("Sprint PCS"), requests the Commission to advance the reply comment date by ten days (from October 22 to October 12, 2001) and to adopt an expedited decision-making process so that a decision in this docket can be rendered no later than *December 31, 2001*, approximately 11 months in advance of the current November 24, 2002 deadline for implementation of wireless local number portability ("LNP"). In the alternative, Sprint PCS requests that the Commission either (a) suspend the LNP deadline to a date one year after it enters its order in this forbearance proceeding or (b) act favorably on the pending reconsideration petitions that seek separation between the LNP and number pooling start dates by delaying the LNP compliance deadline until January 2004.

Sprint PCS does not ask that the November 24, 2002 start date for number pooling be deferred. To the contrary, Sprint PCS is submitting this petition in large part to help ensure that pooling is implemented both successfully and timely. Sprint PCS is committed to implementing number pooling on November 24, 2002. Expeditious grant of LNP forbearance would aid greatly in ensuring that the pooling conversion is also successful and that the reliability of wireless services is not impaired.

I. THE PROBLEM FACING THE CMRS INDUSTRY

On August 2, 2001, Verizon Wireless filed a petition for forbearance from the requirement that providers of commercial mobile radio service ("CMRS") carriers begin providing LNP on November 24, 2002.¹ Verizon Wireless made three arguments in support of its petition.

First, in response to an earlier forbearance petition submitted by CTIA, the Commission determined in February 1999 that the three criteria set forth in Section 10 of the Communications Act had been largely satisfied.² The Commission specifically found that (1) LNP is "not necessary to prevent unjust or unreasonable charges or practices by CMRS carriers;"³ (2) there is "no evidence that requiring wireless carriers to adhere to the current [LNP] implementation schedule is necessary to prevent harm to consumers;"⁴ and (3) forbearance of the LNP obligations is "also in the public interest on competitive grounds":

[T]he high churn rates associated with wireless carriers suggest that the lack of [LNP] currently is not a barrier to customers switching wireless carriers. . . . [W]e find that the factors that most influence competition (price, service area coverage, and service quality) may be more positively influenced by rapid construction of networks and provision of service by new entrants. . . .⁵

These observations were accurate in February 1999, and Sprint PCS submits that they are even more compelling today given the further dramatic growth in CMRS competition over the past 30 months.⁶

¹ See Verizon Wireless, Petition Pursuant to 47 U.S.C. § 160 for Partial Forbearance from the CMRS Number Portability Obligation, WT Docket No. 01-184 (Aug. 2, 2001).

² See *CTIA LNP Forbearance Order*, 14 FCC Rcd 3092 (1999).

³ *Id.* at 3101 ¶ 19.

⁴ *Id.* at 3103 ¶ 22.

⁵ *Id.* at 3109-10 ¶ 34.

⁶ See, e.g., *Sixth CMRS Competition Report to Congress*, FCC 01-192 (July 17, 2001); *Fifth CMRS Competition Report*, 15 FCC Rcd 17660 (Aug. 18, 2000); *Fourth CMRS Competition Report*, 14 FCC Rcd 10145 (June 24, 1999).

Second, in response to the CTIA filing, the Commission decided to extend the LNP conversion deadline, rather than eliminate the requirement, because of its belief that “implementation of LNP is a necessary precondition to the implementation of number pooling techniques used to conserve numbers.”⁷ However, this assumption is not completely accurate. As Verizon Wireless points out in its petition, what is needed to implement number pooling is not LNP, but a Local Routing Number (“LRN”) network architecture.⁸ LNP requires *additional* substantial investment, systems modification and labor resources to implement — activities and investment not needed for implementation of LRN or number pooling. As Verizon Wireless states:

There are many operational requirements (generated solely by the portability mandate) that are unnecessary for pooling. Unlike pooling, portability impacts all segments of a wireless carrier’s business and operations, including its billing systems, customer record, point of sale and customer care systems. In addition to the investment in systems hardware and software, portability will require carriers to set up systems to make comprehensible to their sales staffs and customers the limitation that the rate center system and carriers contracts place on customers’ ability to switch carriers but keep their number. These major changes are not caused by, nor are they needed for, pooling.⁹

Third, we have a numbering crisis in the country and the Commission has directed all “covered” CMRS providers (cellular, enhanced SMR, PCS) to begin participating in number pooling to help solve this crisis. Currently, CMRS carriers are required to implement number pooling on November 24, 2002, the same date they are to convert to LNP.¹⁰ Requiring carriers to “flash cut” to both LNP and number pooling on the same date jeopardizes their ability to successfully implement each capability and poses an unacceptable risk to continued network reliability. Pooling deployment activities should go forward independently, so that number optimi-

⁷ See *CTIA LNP Forbearance Order*, 14 FCC Rcd at 3113 ¶ 43.

⁸ See Verizon Wireless Petition at 9-13.

⁹ *Id.* at 10.

¹⁰ See *Second NRO Order*, Docket No. 99-200, FCC 00-429, 15 FCC Rcd 306, at ¶ 50 (Dec. 29, 2000).

zation efforts proceed without delay and so the reliability of mobile services is not negatively impacted because CMRS carriers tried to implement too many changes in too little time.

Verizon Wireless has made compelling arguments for forbearance of all LNP obligations on the CMRS industry. LNP is not required by statute (and, in fact, Congress specifically decided not to include CMRS carriers under the LNP mandate).¹¹ The Commission's LNP regulatory mandate is not necessary given the intense competition that exists in the CMRS market. LNP will increase carrier operating costs, with Sprint PCS currently estimating that its recurring costs alone of operating in an LNP environment will be at least \$50 million annually (much more if automation efforts are not successfully and timely completed).¹² Additional costs of this magnitude will necessarily be reflected in retail prices. LNP will also divert finite capital resources from investments in capabilities that the mobile public desires (*e.g.*, better coverage, more robust wireless web services, voice activated dialing).

Sprint PCS is taking the steps necessary to become capable of implementing number pooling by the November 2002 deadline and, under the national pooling schedule that will be in effect at this time, Sprint PCS must be capable of converting 21 Numbering Plan Areas ("NPAs") during the fourth quarter of 2002 — the same number that LECs must convert during that same period. However, by the fourth quarter of next year, over 100 additional NPAs will be in pooling, and a plan must be implemented so CMRS carriers can "catch up" to their LEC counterparts, which have been implementing pooling over the past three years. Sprint PCS submits that the resources and energy of the CMRS industry should be devoted to converting rapidly to number pooling (and implementing E911 Phase I and Phase II, CALEA and TTY) rather than

¹¹ The LNP mandate is set forth in 47 U.S.C. § 251(b)(2), and this mandate applies only to landline "local exchange carriers."

¹² Sprint PCS is currently reviewing its LNP cost estimates and hopes to have more firm data for its comments that it will submit on September 21, 2001.

to dilute those resources by simultaneously implementing LNP — a regulatory “solution” to a problem that does not exist in the competitive CMRS market.

The CMRS industry faces a serious problem, however, which necessitates the instant filing. While Sprint PCS is hopeful that the Commission will grant the Verizon Wireless forbearance petition,¹³ the practical problem industry faces is that in order to meet the current November 24, 2002 LNP deadline, carriers must, ten months or so in advance of the deadline (*i.e.*, shortly after the beginning of new year), begin signing vendor contracts and orders and begin increasing sharply the technical resources devoted to the LNP effort (as opposed to the LRN and pooling effort).

LNP activity that must be undertaken 10 months in advance of the LNP deadline are included in the porting project now in process and includes software and hardware purchases and labor hour expenditures. Vendor commitments for software are \$7.9 million, hardware are \$1.2 million, and labor covering systems analysis, design and build to modify 20+ existing core systems. Based on early analysis results, this labor includes a 50,000 hour analysis phase now in process and an estimated 120,000 additional hours to complete the design, build and test efforts. The “burn rate” based on the 50,000 hour analysis phase could reach 10,000 hours per month and be fully expended by January 1, 2002.

If a forbearance decision were made today, Sprint PCS estimates it would save \$26.1 million in LNP design, development, testing and implementation costs (in addition to the even larger recurring operating costs discussed above). Approximately 170,000 labor hours would be freed up for other projects. In contrast, if a forbearance decision is not made until December 31, 2001, Sprint PCS estimates it would save “only” \$21.1 million and “only” 120,000 labor hours

¹³ After all, the FCC recognized over 30 months ago that the statutory forbearance test had been satisfied and the market for mobile telecommunications services has only become more competitive since then.

could be redeployed to more productive work such as pooling. Given that Sprint PCS serves only a small percentage of the total mobile telecommunications market, the capital and labor savings that the entire industry could realize from a prompt Commission decision would be enormous.

Importantly, the network conversion scheduled for November 24, 2002 would be substantially narrowed in scope. As removal of the LNP mandate would enable Sprint to focus more on implementation and testing of pooling, Sprint PCS believes that the elimination of the LNP mandate will help ensure that pooling can be implemented on November 24, 2002 without exposing its network to undue risks of network reliability.

It is time for the Commission to establish priorities. Phase II E911 service is important. TTY capabilities are important. Implementing number pooling is important. The sooner the Commission removes the LNP regulatory mandate, the sooner industry can better focus its resources.

II. THE COMMISSION SHOULD ADOPT EXPEDITED DECISION-MAKING PROCEDURES IN THIS DOCKET

The Communications Act specifies that a forbearance petition “shall be deemed granted if the Commission does not deny the petition . . . within one year after the Commission receives it.”¹⁴ Because Verizon Wireless filed its petition on August 2, 2001, the Commission must act on it by August 2, 2002 — less than four months before the LNP implementation deadline. Given the magnitude of LNP, a CMRS carrier realistically could not possibly meet the November 24, 2002 LNP deadline if it waited until August 2, 2002 before making the investments needed to implement LNP. Each CMRS carrier thus faces having to incur expenses and make

¹⁴ 47 U.S.C. § 160(c). The statute permits the FCC to extend this deadline by “an additional 90 days” under certain circumstances. *Id.* The FCC historically has extended the period for acting on forbearance petitions.

efforts that would be entirely wasted in the event forbearance is granted. For example, Sprint PCS estimates that it will expend \$5 million and 50,000 man hours between today and the end of the year on LNP-only activities. The Commission is well aware of the current financial demands placed on the wireless industry. Forcing the industry to waste scarce and valuable resources simply makes no sense.

Given the competitive demands for CMRS resources (both capital and technical expertise), the Commission should resolve the LNP forbearance petition expeditiously to ensure that finite resources are targeted appropriately. Sprint PCS therefore requests the Commission to adopt the two steps discussed below to help ensure that the Commission decision on the LNP forbearance petition is timely rendered.

A. The Commission Should Accelerate the Reply Comment Date by Ten Days

Comments on the Verizon Wireless forbearance petition are due on September 21, 2001.¹⁵ Reply comments are due a month later, on October 22, 2001.¹⁶ Sprint PCS recommends that the Commission advance the reply comment date by 10 days, so the LNP reply comments would instead be filed by October 12, 2001. Such action would give the Commission additional time to deliberate and would permit more prompt action on this matter. In the past, the Commission has advanced the date of reply comments to give itself additional time to consider the matter before it.¹⁷

Sprint PCS submits that the issues raised by the Verizon Wireless forbearance petition are straightforward. The Commission has already addressed the applicability of the Section 10

¹⁵ See *Public Notice*, "WTB Seeks Comment on Wireless LNP Forbearance Petition Filed by Verizon Wireless," DA 01-1872 (Aug. 7, 2001).

¹⁶ See *id.*

¹⁷ See, e.g., *1998 Annual Access Tariff Filings*, 13 FCC Rcd 12090 (1998); *Expanded Interconnection*, 12 FCC Rcd 10529 (1997); *1997 Annual Access Tariff Filings*, 12 FCC Rcd 8425 (1997).

forbearance criteria to LNP, and the only change that has occurred since the Commission last addressed the issue is that the CMRS market has become far more competitive. Thus, if temporary LNP forbearance was appropriate in February 1999, LNP forbearance is even more compelling today.

Sprint PCS respectfully submits that parties do not require four weeks to prepare reply comments given that the issues have been fully briefed in the past. By advancing the reply comment date by 10 days, the Commission could begin its deliberations earlier and render a decision more quickly.¹⁸

**B. The Commission Should Establish a Decision-making Target
Date of December 31, 2001**

In order to implement LNP by a specified date, carriers need to sign vendor contracts and begin modifying numerous systems approximately 10 months in advance of the implementation deadline (at least if they are to have time to develop and test new systems and modifications to existing systems before using them in commercial service). Based on Sprint PCS estimates, this means as a practical matter that if significant implementation resources are to be saved, carriers need a decision on the LNP forbearance petition by the end of this year. (In fact, as noted, between now and the end of the year, Sprint PCS expects to spend \$5 million on LNP-only related planning and implementation.)

Sprint PCS appreciates that a 2.5-month decision-making period is brief. However, the additional investment Sprint PCS *alone* must make to implement LNP (vs. LRN and pooling) will entail tens of millions of dollars. Sprint PCS further suspects that the additional investment that the entire industry must make for LNP will be several hundred million dollars.

¹⁸ In addition, parties always retain the opportunity to share their views *via* the *ex parte* process.

The issue is not just money, however. Each carrier has finite technical resources and the commitment of these resources to LNP necessarily means that these same resources cannot be devoted to more productive use. In addition, the concurrent implementation of LNP and pooling increases exponentially the risk to network reliability. Given the huge sums and efforts involved, Sprint PCS encourages the Commission to attempt to resolve the LNP forbearance petition by the end of this year.¹⁹ The public interest is not served by industry's expenditure of hundreds of millions of dollars in pursuit of a mandate in advance of Commission consideration of the forbearance request.

III. THERE ARE OTHER ALTERNATIVES THAT THE COMMISSION COULD PURSUE

There are two other alternatives that the Commission could pursue if it believes a December 31, 2001 decision date on LNP forbearance is impractical. As discussed below, the Commission could act on certain pending reconsideration petitions or it could suspend temporarily the current LNP conversion deadline. If it follows this path, however, it must do so now.

A. The Commission Could Promptly Act on Certain CMRS Reconsideration Petitions

The Commission has historically and consistently required phased implementation of new technologies because it "consider[s] network reliability to be of paramount importance."²⁰ For example, it decided that landline LECs should phase-in LNP in the top 100 MSAs over a 15-month period, stating that it has "a significant interest in ensuring the integrity of the public

¹⁹ The FCC need not release the text of its order by the end of the year; Sprint PCS is asking only that by December 31, 2001, the FCC adopt its order and announce its decision.

²⁰ *First LNP Reconsideration Order*, 12 FCC Rcd 7236, 7285 ¶ 83 (1997). *See also Third LNP Reconsideration Order*, 13 FCC Rcd 16090, 16097 ¶ 10 (1998) ("We continue to believe that network reliability is of utmost importance.").

switched network as number portability is deployed nationwide.”²¹ The Commission thereafter permitted landline LECs to phase in number pooling under a separate schedule, finding that “a staggered rollout schedule is necessary.”²²

CMRS carriers, given the nature of their technology and the need to preserve nationwide roaming, cannot phase in LNP or number pooling. They must instead engage in a “flash cut” implementation of pooling, and they must also “flash cut” implementation of LNP. Last December, the Commission required CMRS carriers to “flash cut” to both capabilities on the same date.²³ The Commission adopted this approach because of its determination that it is technically possible (at least in theory) to implement both on the same date.²⁴

Sprint and others have petitioned the Commission to reconsider this decision.²⁵ These petitions demonstrated that the concurrent implementation of LNP and number pooling pose an undue risk to continued network reliability and that in establishing its same date implementation schedule, the Commission did not give sufficient attention to this important consideration. These reconsideration petitions were filed six months ago. All pleadings have been submitted, the record is complete and the matter is ripe for decision.

Thus, one option available to the Commission is to act on these petitions. If it follows this approach, Sprint PCS recommends that the Commission maintain the current November 24, 2002 pooling implementation date but that it defer the LNP implementation deadline to January 15, 2004 (shortly after 2003 holiday season). Such a schedule would enable the CMRS industry

²¹ *First LNP Order*, 11 FCC Rcd 8352, 8394 ¶ 79 (1996).

²² *First NRO Order*, 12 FCC Rcd 7574, 7645 ¶ 159 (2000).

²³ *See Second NRO Order*, Docket No. 99-200, FCC 00-429, 15 FCC Rcd 306, at ¶ 50 (Dec. 29, 2000).

²⁴ *See id.* at ¶¶ 50-51.

²⁵ *See, e.g.*, Sprint Reconsideration Petition, Docket No. 99-200, at 5-12 (March 12, 2000); Cingular Reconsideration Petition at 3-13 (March 12, 2001); CTIA Reconsideration Petition at 5-14 (March 12, 2001).

to focus on successful, timely implementation of pooling, while giving the Commission additional time to consider and act on the LNP forbearance petition.

B. The Commission Could Alternatively Suspend Temporarily the Current LNP Implementation Deadline

As yet another alternative, the Commission could temporarily suspend the current November 24, 2002 LNP deadline. Under this approach, the Commission would not change the November 24, 2002 start date for number pooling, but it would postpone the LNP deadline for one year (preferably, 15 months) after its decision on the Verizon Wireless forbearance petition.

The November 24, 2002 deadline that the Commission established for both pooling and LNP has never been ideal, since this date falls in the middle of the CMRS industry's busiest holiday season. Sprint PCS, like most CMRS carriers, ordinarily has a "quiet period" during this season when it does not install new technologies in its network. This consideration alone would suggest that the Commission defer the LNP deadline. As noted above, however, Sprint PCS does not seek a delay of the November 2002 pooling deadline.

Commission rules permit the Commission to suspend any deadline "for good cause shown, in whole or in part, at any time."²⁶ Number pooling is critically important, and Sprint PCS does not seek a delay of the November 24, 2002 start date. However, no one can dispute that the concurrent implementation of LNP will inhibit a carrier's ability to successfully implement pooling, since the conversion to two complex capabilities at the same time necessarily increases the risk of errors made during the implementation phase. Moreover, even if one believes that the benefits of wireless LNP outweigh the costs of implementing and operating LNP (although there is no record evidence supporting this view), the fact is there is no "magic" to the

²⁶ 47 C.F.R. § 1.3.

November 24, 2002 LNP start date.²⁷ If a 20-month extension of the LNP deadline was appropriate in February 1999, a further short extension is appropriate today, given that the CMRS marketplace has become even more competitive during the intervening time. The Commission's observation 30 months ago — "not only is CMRS competition currently growing rapidly without LNP, but in the near term, LNP does not appear to be critical to ensuring that this growth continues"²⁸ — remains equally valid today.

IV. CONCLUSION

The Commission's Chairman has stated that the Commission "must be efficient, effective, and responsive."²⁹ Other Commissioners share this view.³⁰ The Commission is now considering structural and procedural reforms to speed decision-making.³¹ To be efficient, effective and responsive in this particular instance, the Commission needs to act on the Verizon Wireless LNP forbearance petition by December 31, 2001 (or, alternatively, suspend the LNP conversion date for a period of time after the Commission acts on the forbearance petition).

²⁷ The FCC picked this date because it is the date the last initial group of PCS licenses must make their showing that they have satisfied the five-year PCS buildout requirements. *See CTIA LNP Forbearance Order*, 14 FCC Rcd at 3112 ¶ 39. Of course, this five-year PCS buildout rule date has no significance to cellular and enhanced CMRS licensees or to PCS licensees that obtained their licenses after 1997.

²⁸ *CTIA LNP Forbearance Order*, 14 FCC Rcd at 3102 ¶ 19.

²⁹ Summary of Opening Statement of FCC Chairman Michael K. Powell before the Subcommittee on Telecommunications and the Internet of the House Committee on Energy and Commerce, at 1 (March 29, 2001).

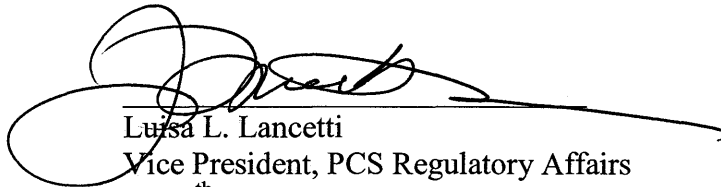
³⁰ *See, e.g.*, Speech of Commissioner Kathleen Q. Abernathy to the 14th Annual Wireless Communications Association Convention (June 25, 2001) ("You are our customers — you deserve responsiveness, timeliness, and well-reasoned results.").

³¹ *See, e.g.*, Mary Beth Richards, Special Counsel to the Chairman (Sept. 13, 2001). Among the recommendations that Staff has made to the Commissioners is that they "use forbearance authority more." *See* Presentation to the Commission, Status of FCC Reform, at 4 (Sept. 13, 2001).

The public interest is *not* served by the CMRS industry expending resources on LNP implementation if the Commission later determines that forbearance is appropriate. The public interest *is* served by having CMRS carriers focusing their energies and resources on implementing number pooling. Accordingly, Sprint PCS respectfully requests that the Commission either act on the LNP forbearance petition by December 31, 2001 or that it alternatively suspend the current LNP deadline.

Respectfully submitted,

SPRINT SPECTRUM L.P., d/b/a Sprint PCS

A handwritten signature in black ink, appearing to read 'L. Lancetti', with a long horizontal flourish extending to the right.

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